

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JULIA POWELL KELLER-MCINTYRE,

No. C-06-3209 MMC (EMC)

Plaintiff,

v.

**ORDER DENYING PLAINTIFF'S
REQUEST FOR ORDER TO ANSWER
DISCOVERY REQUESTS**

COLLEGE OF HEALTH & HUMAN
SERVICES, SAN FRANCISCO STATE
UNIVERSITY,

(Docket No. 106)

Defendant.

Plaintiff Julia Powell Keller-McIntyre has filed a motion asking that discovery be extended until December 1, 2006, so that the College can respond to certain written discovery propounded by Ms. Keller-McIntyre. The Court hereby **DENIES** the request for an extension.

The discovery cut-off in this case was October 20, 2006. Under the Civil Local Rules, "a 'discovery cut-off' is the date by which all *responses* to written discovery are due and by which all depositions must be concluded." Civ. L.R. 26-2 (emphasis added). According to Ms. Keller-McIntyre, she served the written discovery on the College on October 10, 2006. Under the Federal Rules of Civil Procedure, the responses to the discovery requests would not be due until thirty days later -- *i.e.*, until November 9, 2006, which is past the discovery cut-off date. Thus, contrary to Ms. Keller-McIntyre's statement, the discovery was not timely, and the College was under no obligation to respond.

The only question for the Court is whether it should permit an extension of the discovery deadline so that Ms. Keller-McIntyre can obtain responses to the written discovery she served. As

1 the Court noted in a previous order, under Federal Rule of Civil Procedure 16(b), a scheduling order
2 may be modified only upon a showing of good cause and by leave of the Court. *See* Fed. R. Civ. P.
3 16(b).

4 The Court finds that Ms. Keller-McIntyre has failed to establish good cause. First, Ms.
5 Keller-McIntyre has failed to provide any explanation as to why she could not complete the
6 discovery sought within the discovery period. Ms. Keller-McIntyre does not claim, for instance, that
7 the discovery was precipitated by information that she learned of only recently. Second, although
8 Ms. Keller-McIntyre asserts that the discovery is vital, there is nothing to support this assertion. Ms.
9 Keller-McIntyre did not even provide copies of the written discovery to the Court -- this in spite of
10 the fact that, in a prior order, the Court specifically stated that, “[i]f the dispute concerns written
11 discovery . . . , then the party seeking relief should provide to the Court a copy of the discovery
12 requests,” Order of 10/17/06, at 2 -- so that the Court could make an assessment as to how vital the
13 discovery actually is. Moreover, the only prejudice claimed by Ms. Keller-McIntyre is that getting
14 her questions answered at trial “would take up a great deal of time.” Ms. Keller-McIntyre does not
15 argue that she would not have a fair opportunity to present her case without answers to the
16 discovery.

17 Accordingly, Ms. Keller-McIntyre’s request for an extension is denied.

18 This order disposes of Docket No. 106.

19
20 IT IS SO ORDERED.

21
22 Dated: November 2, 2006

23
24 
EDWARD M. CHEN
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JULIA POWELL KELLER-MCINTYRE, No. C-06-3209 MMC (EMC)

Plaintiff,

v.

CERTIFICATE OF SERVICE

COLLEGE OF HEALTH & HUMAN
SERVICES, SAN FRANCISCO STATE
UNIVERSITY,

Defendant.

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

Julia Powell Keller-McIntyre
P.O. Box 320662
San Francisco, CA 94132
415/314-4204 (cell)
415/405-3943 (work)

***ALL OTHER COUNSEL/PARTIES TO
RECEIVE ORDER VIA ELECTRONIC
FILING***

Dated: November 2, 2006

RICHARD W. WIEKING, CLERK

By: /s/
Leni Doyle
Deputy Clerk